



Entered on Docket
April 08, 2011

Bruce A. Markell

Hon. Bruce A. Markell
United States Bankruptcy Judge

CHRISTOPHER P. BURKE, ESQ.
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Attorney for Debtor(s)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:)	BK-S-10-33220-BAM
)	Chapter 13
THOMAS LEE CAMPBELL,)	
)	
Debtor(s).)	Date: 3/10/11
)	Time: 3:05 p.m.

ORDER APPROVING MOTION TO VALUE COLLATERAL AND MODIFY (STRIP OFF) THE SECOND MORTGAGE OF WELLS FARGO HOME MORTGAGE (ACCT. ENDING NO. 8181) FOR PROPERTY 6985 POINT CABRILLO COURT LAS VEGAS, NV 89113 PURSUANT TO 11 U.S.C. §506(a), §1322 AND OBJECTION TO SAID CLAIM PURSUANT TO F.R.B.P. 3007

Upon the reading and filing of Debtor, THOMAS CAMPBELL, (hereinafter "Debtor" or "Campbell") Motion to Value Collateral and Modify (Strip Off) the Second Mortgage of Wells Fargo Home Mortgage (Acct. Ending No. 8181) Pursuant to 11 U.S.C. §506(a), §1322 and Objection to Said Claim Pursuant to F.R.B.P. 3007, by and through their attorney, CHRISTOPHER P. BURKE, ESQ., and WELLS FARGO HOME MORTGAGE, (hereinafter "Creditor" or "Wells Fargo") not opposing nor appearing, and based upon the papers and pleadings on file herein, and good cause appearing;

1. The Debtor's principal residence located at 6985 Point Cabrillo Court Las Vegas, NV 89113 ("Point Cabrillo") is valued at \$146,000.00 as of the date of the Debtor's Chapter 13 Petition.

2. Point Cabrillo is collateral for a senior secured claim of Wells Fargo Bank, N.A. (Wells Fargo Bank).

[Check only one box, and fill in blanks]

X Wells Fargo Bank has filed a Proof of Claim 2-1 related to such claim, and such Proof of Claim claims a debt of \$220,593.84. Wells Fargo Bank's proof of Claim indicates that Wells Fargo Bank has assigned 5767 to this claim.

[or]

____ Senior Claim has **not** filed a Proof of Claim related to its claim, but has assigned [account#] to this claim. The Debtor's schedules list the amount of senior claim's claims as \$[amount].

3. Point Cabrillo is also collateral for a junior secured claim of Wells Fargo Bank, N.A. ("Wells Fargo").

X Wells Fargo has filed a Proof of Claim 6-1 related to such claim, and such Proof of Claim claims a debt of \$46,604.34. Wells Fargo's Proof of Claim indicates that Wells Fargo has signed 8181 to this claim.

[or]

____ Junior Claim has **not** filed a Proof of Claim related to its claim, but has assigned [account#] to this claim. The Debtor's schedules list the amount of Junior Claim as \$[amount].

4. Given the above, Wells Fargo's interest in the Debtor's interest in Point Cabrillo has no value.

THEREFORE, IT IS HEREBY ORDERED, that pursuant to Zimmer v. PSB Lending

Corp. (*In re Zimmer*), 313 F.3d 1220(9th Cir.2002), and 11 U.S.C. §§506(d) and 506(d), BAC's claim is unsecured, and shall be treated as unsecured for all purposes in this case, including the manner in which such claim is treated and paid in Debtor's Chapter 13 plans; and

IT IS FURTHER ORDERED that should Debtor receive a discharge in this case, Wells Fargo, shall as soon as practicable thereafter take all necessary and appropriate steps to remove its lien of record, and to ensure that Debtor's title to Point Cabrillo is clear of any cloud on titled related to Wells Fargo's claim. This court hereby reserves jurisdiction with respect to any dispute over the actions necessary to comply with this paragraph; and

IT IS FURTHER ORDERED that should this case be converted to one under another chapter, 11 U.S.C. §348(f) shall govern the continued validity of this order; and

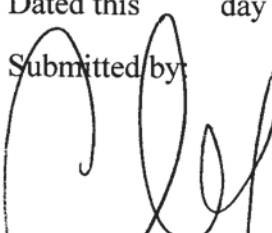
IT IS FURTHER ORDERED that should this case be dismissed, 11 U.S.C. §349(b)(1)-(3) shall govern the continuing validity of this order; and

IT IS FURTHER ORDERED that nothing in this order shall be deemed to be an allowance or disallowance of any claim of Wells Fargo Bank and Wells Fargo, and any party in interest, including the Debtor or the Trustee, may hereafter object to either claim on any ground recognized by the Bankruptcy Code.


IT IS SO ORDERED.

Dated this day of March, 2011.

Submitted by


CHRISTOPHER P. BURKE, ESQ.
Nevada Bar No.: 004093
218 S. Maryland Pkwy.
Las Vegas, NV 89101
(702) 385-7987
Attorney for Debtor(s)

Approved/Disapproved:

 4/5/11
KATHLEEN A. LEAVITT
Chapter 13 Trustee
201 Las Vegas Blvd. S., #200
Las Vegas, NV 89101

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RULE 9021:

In accordance with Local Rule 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

___ The court has waived the requirements set forth in LR 9021(b)(1).

___ No party appeared at the hearing or filed an objection to the motion.

X I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

APPROVED:

Kathleen Leavitt
Chapter 13 Trustee
201 Las Vegas Blvd., #200
Las Vegas, NV 89101
(702) 853-0700

___ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

IT IS SO ORDERED.

Submitted by:

/S/CHRISTOPHER P. BURKE, ESQ.
CHRISTOPHER P. BURKE, ESQ.
Attorney for Debtor